

FILED
APR 29 2008
 RICHARD W. WIEKING
 CLERK U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

Wilfredo Bermudez, V-67000
 Pleasant Valley State Prison
 Facility "D," D1-149
 P.O.Box 8504
 Coalinga, CA 93210
 In Pro Se:

IN THE UNITED STATES DISTRICT COURT FOR
 THE NORTHERN DISTRICT OF CALIFORNIA

WILFREDO BERMUDEZ
 Plaintiff,

vs.

GREG STORME, et al.,
 Defendant(s).

CV 08-2236

Case No: JWC 067585

MOTION FOR LEAVE TO FILE AN
 AMENDED COMPLAINT

E-filing

(PR)

Plaintiff Wilfredo Bermudez, pursuant to Rules 15(a) and 19(a), Fed. R. Civ. P., request leave to file an amended complaint to demonstrate available administrative remedies in this instant civil action have been appropriately exhausted. Pursuant to 42 U.S.C. 1997e (a).

1) The Plaintiff/Bermudez alleged a violation of his constitutional rights which constituted, [cruel and unusual punishment, due process violation and deliberate indifference to his medical needs] under the Eighth and Fourteenth Amendment to the United States Constitution.

608-2236-JW



1 2) The District Court dismissed the claim on [May 16, 2007]
2 without prejudice for failure to satisfy the exhaustion
3 requirements of the Prison Litigation Reform Act (PLRA), which
4 states:

5 "no Action shall be brought with respect to prison
6 conditions under section 1983 of this title, or any
7 other Correctional Facility until such administrative
8 remedies available are exhausted. 42 U.S.C. 1997 (a)."
9

10 3) Plaintiff/Bermudez asserts that he has exhausted all
11 available administrative remedies through the prisoner grievance
12 procedure available at [San Mateo County Jail Facility Detention
13 Division] to try and solve the existing constitutional violations.

14 (a) On [October 14, 2004], Plaintiff/Bermudez instituted
15 administrative appeal at [San Mateo County Jail Facility Detention
16 Division]. First response denied. Plaintiff/Bermudez sought
17 next level of review contending his rights but, was denied through
18 all level's of review. See attached Exhibit "A," Inmate Grievance
19 Form:

20 (b) On [December 16, 2004] Plaintiff/Bermudez submitted an
21 administrative appeal addressing unnecessary use of force against
22 Plaintiff at [San Mateo County Jail Facility Detention Division].
23 First response by-passed and addressed at the Facility Commander
24 level of review. See attached Exhibit "B," Inmate Grievance Form/
25 Response To Inmate Grievance dated December 23, 2004:

26 (c) Plaintiff/Bermudez submitted yet another administrative
27 appeal dated December 26, 2004, explaining the issues but,
28 Facility Commander response abandoned his responsibilities and

1 recommended Inmates Grievance Form to [Ops For Investigation] on
2 December 27, 2004. See attached Exhibit "C."

3 4) Plaintiff/Bermudez has filed numerous inmate grievance
4 form/appeal(s) through the [Detention Facility] internal grievance
5 system relative to defendants' conduct described. Plaintiff/
6 Bermudez has thus exhausted his administrative remedies for the
7 claim. See Woodford v. Ngo (2006)-U.S. [126 S. ct. 2378]:

8 5) This court should grant leave freely to amend a
9 complaint. See Foman v. Davis, (1962) 371 U.S. 178, 182.

10
11 Respectfully submitted,

12 *Wilfredo A. Bermudez*
13 *W. A. Bermudez*
14 *W. A. Bermudez*

15 DATED: 4-21-08

16 Wilfredo Bermudez, Plaintiff,
17 In Pro Se.
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COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983

Name Bermudez Wilfredo A.
(Last) (First) (Initial)

Prisoner Number CDC # V-67000 SM50 I 249211

Institutional Address Pleasant Valley State Prison, Coalinga, CA

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

Wilfredo A. Bermudez
(Enter the full name of plaintiff in this action.)

VS.

Case No. JW
(To be provided by the Clerk of Court)

COMPLAINT UNDER THE
CIVIL RIGHTS ACT
Title 42 U.S.C § 1983

Greg Storme
Greg Businger
Tony Adams
John Does 1-25
(Enter the full name of the defendant(s) in this action)

Nino Acosta, Deputy Garcia, Deputy Munoz

[All questions on this complaint form must be answered in order for your action to proceed.]

I. Exhaustion of Administrative Remedies.

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement Pleasant Valley State Prison

B. Is there a grievance procedure in this institution?

YES (✓) NO ()

C. Did you present the facts in your complaint for review through the grievance procedure?

YES (✓) NO ()

San Mateo County Jail Facilities
Inmate Grievance Form

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue a certain level of appeal, explain why. After filing 2 grievances on 12-16-04 and 12-26-04 and going through Disciplinary Review Board, my appeal seemed futile given San Mateo Sheriff officials failure to interview inmate witnesses, despite my requests to do so. (Team Commander)

COMPLAINT

1. Informal appeal I filed grievances on 12-14-06 and on 12-26-04 asking that the matter be investigated and inmate witnesses be interviewed. These witnesses were not to my knowledge ever interviewed.
2. First formal level _____

3. Second formal level _____

4. Third formal level _____

E. Is the last level to which you appealed the highest level of appeal available to you?

YES () NO ()

F. If you did not present your claim for review through the grievance procedure, explain why. _____

II. Parties.

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

Wilfredo A. Bermudez CDC# V-67000
Pleasant Valley State Prison
Coalinga, CA.

B. Write the full name of each defendant, his or her official position, and his or her place of employment.

Greg Storme, Correctional Officer, San Mateo City Sheriff's Office

COMPLAINT

Nino Aosta, Deputy, San Mateo City Sheriff's Office.

Greg Businger, Correctional Officer, San Mateo City Sheriff's Office

Tony Adams, Deputy, San Mateo City Sheriff's Office

Deputy Garcia, first name unknown, San Mateo City Sheriff's Office

Deputy Muñoz, first name unknown, San Mateo City Sheriff's Office

John Does 1-25, titles unknown, San Mateo City Sheriff's Office

III. Statement of Claim.

State here as briefly as possible the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

Background

In approximately March 2004, I was incarcerated in San Mateo County Jail, Maguire Facility pending local criminal charges. In April or May 2004, a correctional (I believe) doctor ordered a special diet for me, including a "Low Fat Diet," "Bland Diet," and "No Added Salt (NAS) Diet" after finding I had medical conditions such as high blood pressure, respiratory difficulties, bleeding ulcer, and being overweight at 342 lbs.

In June 2004, I began receiving the special diet and felt better. Then for unknown reasons in September 2004, I no longer consistently received the ordered special diets. After making verbal complaints about my diet to no avail, I filed a grievance regarding my dietary needs on 10-14-2004. I tried to file another grievance on 12-11-04 and was beat up by jail staff. (continued - see attached)

IV. Relief.

Your complaint cannot go forward unless you request specific relief. State briefly exactly what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

I demand a jury trial and request damages to compensate me for injuries sustained as a result of the incident on 12-11-04 and pain and suffering and punitive damages for the same incident → all damages in an amount to be proven at trial.

COMPLAINT

1) Excessive Use of Force

On 12-11-04 after being given an improper meal again, I asked to file a grievance. I asked for a grievance form and to speak with a Sargeant, around dinner time. I received medication from a nurse, and fell asleep. I was awakened by Deputy Nina Acosta for recreation time around 11:30 pm. I asked Deputy Acosta and Deputy Businger to please call the Sargeant about my food.

Because the officers had not taken my request to see a Sargeant seriously nor my desire to file a grievance about my special diet, I refused to leave the recreation area until my grievance was taken and I could talk with a Sargeant. The officers present refused my requests. Officers Storme, Businger and Adams came into the room to restrain me. One grabbed one of my arms, another grabbed the other arm. They kicked and punched me in the head, face, back and legs. I believe Deputy Acosta called for more men. About 11 more officers came into the room. I remember Officers Munoz and Goucia came in. One or more of them twisted my legs and pulled my feet from underneath me. I sustained bruises and abrasions on my body & face. My ribs, shoulder and knee were injured. On 12-22-04 a doctor ordered an MRI on my shoulder and knee. I was told I need surgery on my knee.

2) Failure to provide medical attention

Not only was I not receiving the doctor ordered diet consistently, despite my verbal complaints and grievances, but after being beat up by jail staff, I was not given medical attention for over three hours. On 12-16-04 I gave Nurse Margie a stool sample that had blood and did not get any immediate follow-up. I was told about this on 12-18-04.

III Statements of Claim (cont'd)

3) Violation of Due Process

The assault and beating were unnecessary. I just wanted to talk to a sergeant about my diet.

I was denied the opportunity to present inmate witnesses on my behalf regarding the incident on 12-11-04.

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I declare under penalty of perjury that the foregoing is true and correct.

Signed this _____ day of _____, 20____

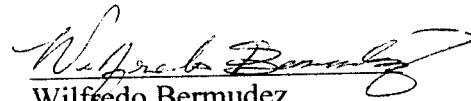
(Plaintiff's signature)

see attached signature/verification

COMPLAINT

VERIFICATION

I declare under the penalty of perjury that I have read the foregoing and that it is true and correct and based on my personal knowledge, except those paragraphs made on information and belief, and with respect to those paragraphs, I believe them to be true. Executed in Coalinga, California, on December 8, 2006.


Wilfredo Bermudez
V-67000

RECEIVED
06 DEC 11 PM 5:27
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Wilfredo Bermudez Plaintiff,

vs.

Greg Storme, et al. Defendant.

CASE NO. _____ JW

**PRISONER'S
APPLICATION TO PROCEED
IN FORMA PAUPERIS**

(PR)

I, WILFREDDO BERMUDEZ, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes ☐ No ☒

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: _____ Net: _____

Employer: _____

- b. List the persons other than your spouse who are dependent upon you for support and indicate how much you contribute toward their support. (NOTE: For minor children, list only their initials and ages. DO NOT INCLUDE THEIR NAMES.).

PA 15 - AA 12, AA 10.

5. Do you own or are you buying a home? Yes ☐ No ☒

Estimated Market Value: \$ _____ Amount of Mortgage: \$ _____

6. Do you own an automobile? Yes ☐ No ☒

Make _____ Year _____ Model _____

Is it financed? Yes ☐ No ☒ If so, Total due: \$ _____

Monthly Payment: \$ _____

7. Do you have a bank account? Yes ☐ No ☒ (Do not include account numbers.)

Name(s) and address(es) of bank: _____

Present balance(s): \$ _____

Do you own any cash? Yes ☐ No ☒ Amount: \$ _____

Do you have any other assets? (If "yes," provide a description of each asset and its estimated market value.) Yes ☐ No ☒

8. What are your monthly expenses?

Rent: \$ 0 Utilities: 0

Food: \$ 0 Clothing: 0

Charge Accounts:

Name of Account	Monthly Payment	Total Owed on this Account
	\$	\$
	\$	\$
	\$	\$

1 9. Do you have any other debts? (List current obligations, indicating amounts and to
2 whom they are payable. Do not include account numbers.)

3 No

4 No

5
6 10. Does the complaint which you are seeking to file raise claims that have been presented
7 in other lawsuits? Yes ☐ No ☒

8 Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in
9 which they were filed.

10 _____
11 _____

12 I consent to prison officials withdrawing from my trust account and paying to the court
13 the initial partial filing fee and all installment payments required by the court.

14 I declare under the penalty of perjury that the foregoing is true and correct and
15 understand that a false statement herein may result in the dismissal of my claims.

16
17 12-08-06
DATE

Rafaelo Bermudez
SIGNATURE OF APPLICANT

18
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20 Case Number: _____
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EXHIBIT A

Grievance Form

- ☐ Classification
☐ Medical
☒ Food Service

Time 10:15
 Facility N/C3
 Deputy 15

To: (Facility Commander) KITCHEN

Date 10/14/2004

From: (Inmate's Name) W. Bermudez or F. ARELLANO

Id# 249211

Cell 3-W3C

Grievance (Please be specific: time, date, etc.) I'm ON A LOW FAT - LOW SALT - BLAND - WHITE MEAT - ONLY DIET... I GOT ULCERS - HIGH BLOOD Pressure. Peanut BUTTER GIVES ME HIVES... ON 10-12-04 THE NUTRITIONIST WAS SUPPOSED TO CALL UP AND FIND OUT WHAT'S UP FIRST NO MED ATTN. THEN THEY PULL MY DIET AND SINCE 9-21-04 I'VE BEEN GETTING WHAT EVER YOU PEOPLE SEE FIT TO GIVE ME... PLEASE LOOK INTO THIS MATTER FOR ME I WOULD APPRECIATE... I KNOW I'M IN JAIL BUT THAT'S STILL NO REASON TO FEED ME LIKE YOU BEEN. I'M STARVING I'M 342 LBS AND IT'S HARD. PLEASE HELP ME!

LOW FAT - LOW SODIUM

AKA F. ARELLANO

LOW SALT - BLAND DIET

WHITE MEAT ONLY

I GOT HIGH BLOOD pressure.

Inmate's Signature: W. Bermudez

Note: After you have finished and signed this form, take your GOLD copy for your records.

Staff member's response: C/O LESSEN NOTIFIED JASON IN THE KITCHEN REGARDING THE ABOVE GRIEVANCE. JASON INFORMED C/O LESSEN THAT TODAY'S TRAY MET INMATE BERMUDEZ' DIETARY NEEDS AS WRITTEN BY THE MCF DIETITIAN. INMATE BERMUDEZ SEEMS TO HAVE PROBLEMS WITH DINNER TRAYS ON THURSDAYS. I AM FORWARDING THIS GRIEVANCE TO THE KITCHEN FOR REVIEW.

Signature: SPORNIS #112

Date: 10/14/04

Supervisor's response:

MR. ARELLANO! YOUR DIET STATES HAS LOW FAT. IT DOESN'T SAY ANYTHING ABOUT WHITE MEAT ONLY. YOUR PORTIONS ARE APPROVED BY THE COURT DIETITIAN, AND B.O.C. UNDER TITLE 15, I CAN'T DO ANYTHING ABOUT YOUR WEIGHT.

Signature: [Signature]

Date: 10/15/04

Facility Commander:

I WILL FORWARD THIS TO THE DIETITIAN FOR RE-EVALUATION. HOWEVER, MEDICAL STATES YOU ARE TO BE ON "NO SALT, LOW FAT & LOW SODIUM" DIET.

Signature: [Signature]

Date: 10-17-04

White: File

Yellow: Response to Inmate

Pink: Staff

Gold: Inmate's Copy

LOW FAT DIET

*The doctor has ordered a Low Fat Diet for you.
This is information about your diet.*

The Low Fat Diet is for people with medical conditions such as gallbladder disease, high cholesterol, or morbid obesity.

Foods that may be excluded in this diet are fried foods, margarine, butter, sausage, high fat meats, hot dogs, gravy, peanut butter, and cheese sandwiches.

Avoid commissary items such as chocolate, nuts, pastries, cookies, and meat or cheese sticks, as these usually have a lot of added fat.

Fat is used by our bodies in many ways, so it is important to have some fat in your diet so nutritional deficiencies don't occur.

Fat that comes from animal foods (like eggs, meat, cheese, butter, whole milk, sausage, and chicken skin) contain cholesterol. Do not eat too many of these foods. Eating too much animal fat and cholesterol can cause cholesterol to build up in the blood. This cholesterol clogs the blood vessels (much a clogged sink pipe) and makes it very hard for your heart to pump blood. A good blood cholesterol level is under 200.

Other ways to keep your heart healthy and lower blood cholesterol is to exercise your heart and muscles by walking, jogging, cycling, etc., for at least 20 minutes straight every day. Also, eat lots of high fiber foods like beans, vegetables, fruits, and breakfast cereals such as oatmeal and bran flakes. High fiber foods help take cholesterol right out of your body.

The Low Fat Diet provided to you does not contain high amounts of animal fat or cholesterol. This diet is also nutritionally complete and may be used long-term.

NOTE: Your Low Fat Diet tray or bag meal will be labeled with your name & housing for you to pick up. On some days you may get the same food as the Regular diet, this is because the regular diet food is okay to eat for the Low Fat Diet.

September 2000
Correctional Health Dietitian

Diet Education Sheet

BLAND DIET

The doctor has ordered a Bland Diet for you.

This is information about your diet.

The Bland Diet is for people who are unable to tolerate a Regular Diet due to a medical diagnosis of an acute (active) stomach or intestinal tract problem.

This diet is made up of milder foods that are easy on the digestive tract. Items that are typically excluded from this diet may include highly seasoned / spiced foods, such as salami, hot dogs, chili, spaghetti sauce, gravy, burrito, etc. Deep-fried foods, caffeine, pepper, beans, nuts, chunky peanut butter, seeds, coarse breads and certain cereals, and some raw vegetables and fruits are usually not served on the Bland Diet.

This Bland Diet may not be perfect for everyone, because symptoms may be different from person to person. It is up to the individual person to eat foods that are tolerated well, and to avoid foods that cause problems.

In order to help symptoms of a stomach or intestinal problem, it is important to:

- Chew food thoroughly
- Chew and swallow food slowly
- Avoid food and beverages that contain caffeine
- Wait at least 2 hours after eating before lying down

A carefully planned Bland Diet is nutritionally complete and may be used long-term.

NOTE: Your Bland Diet tray or bag meal will be labeled with your name & housing for you to pick up on the pod. On some days you may get the same food as the Regular diet, this is because the regular diet food is okay to eat for the Bland Diet.

NO ADDED SALT (NAS) DIET

*The doctor has ordered a No Added Salt Diet for you.
This is information about your diet.*

The NAS Diet is for people who need a diet lower in salt due to the diagnosis of high blood pressure, and certain heart, kidney or liver conditions.

Foods that are high in salt are: ham, sausage, hot dogs (low salt ok), gravy, broth, canned chili, bottled salad dressing, canned/packaged soups/sauces, soy sauce, pickles, olives, canned vegetables, processed cheese, some lunch meats and packaged entrees. These foods may be left out of your meals, or may be provided in limited amounts to balance the amount of salt in your diet.

Avoid high-salt commissary items such as salted nuts, chips, pretzels, bouillon cubes, ramen noodles, beef or cheese sticks, and seasoning such as garlic salt, onion salt, and seasoning salt.

In the United States, salt is added to many foods for flavor and as a preservative. Salt contains a lot of sodium. Sodium is a mineral your body needs to stay healthy, but most people eat way too much salt. Too much can cause water to stay in your body (swelling) and can worsen high blood pressure, bone disease, liver disease and kidney disease. Too much sodium does not let your blood pressure medication work well.

High blood pressure is dangerous. It is called the "silent killer". Even though you may feel fine, high blood pressure leads to heart disease, kidney disease, and stroke. Here are ways to help control your blood pressure:

- Eat less than 3000 milligrams of sodium per day (avoid the salt shaker, fast food and high salt foods, learn to read food labels).
- Eat lots of fruits and vegetables. Drink 2 or more cups lowfat milk per day. These have minerals like potassium & calcium which fight high blood pressure.
- Exercise at least 30 minutes everyday to help keep your heart strong.
- Avoid alcohol or limit it to 1-2 drinks per day. Avoid caffeine.
- Lose weight if you are overweight! Many people get high blood pressure because they are too heavy around the waist and stomach.

NOTE: Your NAS Diet tray or bag meal will be labeled with your name & housing for you to pick up. On some days you may get the same food as the Regular diet, this is because the regular diet food is okay to eat for the NAS Diet.

September 2000 REV. 10/02, 10/03

Correctional Health Dietitian

EXHIBIT B

Inmate Grievance Form

☐ Assault
☐ Classification
☒ Medical
☐ Food Ser

Date 12-16-04
 Time 10:07 P.M.
 Facility 3 WEST
 Deputy #113

To: (Facility Commander) ADDIM. LT.

Date 12-16-04

From: (Inmate's Name) W. BERMUDEZ.

Id# 249211

Cell 3-W-49

Grievance (Please be specific: time, date, etc.) ON 12-11-04 I WAS ASULTED BY 3
 DEPTYS. ON 12-16-04 I GAVE NURSE MARGIE A
 STOOL SAMPLE THAT DEPTNY GORKOVIL SEEN HAD
 BLOOD THERE SAYING NOTHING EVER GOT TESTED
 MY WIFE HAS BEEN ASKING MED WHAT GOING
 ON AND SOMEBODY KEEPS SAYING THAT THE RUN
 AROUND. NO BODY EVER CAME TO TALK TO
 ME ABOUT THE ORIGINAL WRITE ON 12-11-04
 IS THERE A I A D DEPT IN THE SHERIFFS?
 I WOULD LIKE TO TALK TO SOMEBODY ABOUT
 MY COMPLINT I NEED TO TALK TO SOMEONE
 PLEASE! LT BRIDY OR WHO EVER IS IN CHARGE
 PLEASE ADDRESS THIS MATTER SO FAR THEY SAY
 IT BEING LOOK INTO BUT NOBODY IS DOING SHIT

Inmate's Signature: W. Bermudez

Note: After you have finished and signed this form, take your GOLD copy for your records.

Staff member's response:

Signature:

Date:

Supervisor's response:

Signature:

Date:

Facility Commander:

See attached response
 my me, 12/23/04

Signature: M. Hill

Date: 12/23/04

White: File

Yellow: Response to Inmate

Pink: Staff

Gold: Inmate's Copy

Date: 12/23/04

By: Lt. H. Hurst, MCF

Re: Inmate W. Burmudez
Id. # 249211
Pod 3--West
Date of grievance: 12/16/04
Date grievance received from inmate: 12/18/04

I'm aware of the altercation you staged on pod 3-West by luring staff into a scuffle with you; and staging other inmates as abettors and scribe.

Complaint:

We are in receipt of the complaint letter you sent forward and the matter will be looked into.

Report:

An Inmate Action Report was completed at that time and you were given a copy, then. I've attached another copy for your information.

Medical:

I know nothing of your medical visits, that's confidential between you and medical. I will say, as a precaution, you were seen by medical immediately following your scuffle with staff on 12/11/04.

Personnel:

Neither in person nor by way of the inmate grievance process can I or anyone discuss personnel matters. Such matters are sensitive and confidential.

Your wife:

Your wife has not contacted me and I know nothing of to whom she has spoken with or her effort to speak to anyone.

I can tell you that staging attacks on staff is a direct violation of Jail Rule (#201) which has disciplinary consequence, and, could lead to criminal liability as well.

There is nothing further for me to talk to you about regarding the incident of December 11th. That is not to say that other staff who may be looking further into that incident may not be contacting you.

I caution you to obey jail rules, take care of your own affairs and avoid incurring additional criminal charges while in custody.

San Mateo County Sheriff's Office Detention Division



- ☐ Special Housing
☒ Report of Inmate Action
☐ Administrative Action
☐ Informational Report
☐ Strip Search

DATE 12/11/04	TIME 2345
FACILITY MCF3WA09	
REPORTING DEPUTY Storme 120	
APPROVED BY <i>[Signature]</i>	
CLASSIFICATION STATUS H33X	

PRINT OR USE TYPEWRITER TO FILL IN THIS FORM

INMATE NAME Bermudez, Wilfredo		SEX Male	SMSO ID.# 249211	DATE 12/11/04	TIME 2345
BOOKING CHARGES VC 10851(a), PC 496A, 466.5a, 529, 245c, 666		MEDICAL PROBLEMS? Ref to Medical	MED. STAFF ADVISED? (NAME) Nurse Manny	Report of Inmate Action	
Special Housing				<input type="checkbox"/> MINOR Infraction	
CELL # Sobering#2	C.O. Businger #108	12/11/04 2345		RECOMMENDED DISCIPLINE: 15 Days C side	
CELL # Sobering#2	REMOVED BY DEPUTY C.O. FOX #148	DATE & TIME 12/12/04 0000			
Restraint Gear				<input checked="" type="checkbox"/> MAJOR Infraction	
RESTRAINT GEAR USED Handcuffs				You are accused of conduct in a San Mateo County Jail Facility which constitutes a MAJOR violation. If found guilty, the recommended punishment for this infraction is: LISTED ABOVE	
PLACED BY DEPUTY C.O. Businger#108		DATE & TIME 12/11/04 2357		AVAILABLE GOOD/WORK TIME: _____	
REMOVED BY DEPUTY C.O. Businger#108		DATE & TIME 12/12/04 0005		<input type="checkbox"/> I do not contest the facts of the allegation. I accept the penalty and waive further hearing. <input checked="" type="checkbox"/> I do request a hearing before the Disciplinary Review Board.	
Inmate Welfare Checks				I have been supplied with an infraction Review Board Information sheet and I understand my rights to a hearing and the procedure for obtaining same. I have received a copy of this report.	
DEPUTY / BADGE #	DATE & TIME	DEPUTY / BADGE #	DATE & TIME		
DEPUTY / BADGE #	DATE & TIME	DEPUTY / BADGE #	DATE & TIME		
DEPUTY / BADGE #	DATE & TIME	DEPUTY / BADGE #	DATE & TIME		
DEPUTY / BADGE #	DATE & TIME	DEPUTY / BADGE #	DATE & TIME		
Strip Search				SIGNATURE OF INMATE <i>[Signature]</i> 249211	
REASON / PURPOSE OF SEARCH				SIGNATURE OF WITNESS	
SEARCH CONDUCTED BY DEPUTY / BADGE #			DATE & TIME		
SEARCH WITNESSES BY DEPUTY / BADGE #			SEX Male		
RESULTS OF SEARCH					
DESCRIBE CONDUCT OR CIRCUMSTANCES LEADING TO ACTION TAKEN:					

REFER TO PAGE 2

DISCIPLINARY REVIEW BOARD FINDINGS (Note facts relied on and witnesses called)

BOARD MEMBER	DATE	BOARD MEMBER	DATE	BOARD MEMBER	DATE
COMMENTS: Inmate received his copy of write-up and right to hear. 12/12/04 0300 Hours.					
FACILITY COMMANDER APPROVAL <i>[Signature]</i>					DATE 12.11.04

**Alameda County Sheriff's Office
Detention Division**



- ☐ Special Housing
☒ Report of Inmate Action
☐ Administrative Action
☐ Informational Report
☐ Strip Search

DATE	12/11/04
FACILITY	MCF3WA09
REPORTING DEPUTY	Storme #108
APPROVED BY	<i>[Signature]</i>

PRINT OR USE TYPEWRITER TO FILL IN THIS FORM

DESCRIBE CONDUCT OR CIRCUMSTANCES LEADING TO ACTION TAKEN:

Rule Violation 201:Criminal Conduct(Inmate shall not act threatening or display aggression toward staff)

On 12/11/04 at 2340 hours, I was contacted by C.O. Businger that he was having problems with Inmate Bermudez. C.O. Businger asked if I could come up and talk to Inmate Bermudez. I arrived along with Deputy Adams. I was told by C.O. Businger that Inmate Bermudez was concerned about a prior grievance he had.

I spoke to Inmate Bermudez, who was in the dayroom; Inmate Bermudez stated he wanted to talk to a Sgt. to look at his grievance. I told him that I would take his grievance and give it to a Sgt. I went to enter the dayroom to retrieve the grievance. Inmate Bermudez grabbed the dayroom door and shook it as I went to open it. I told Inmate Bermudez that he needed to return to his cell and I would take his grievance. Inmate Bermudez backed up from the door and said we would lock down if I took his grievance. He had the grievance in his right hand. I entered the dayroom to retrieve his grievance and walk him back to his cell.

Once inside the dayroom, I took the grievance and Inmate Bermudez turned around and started to walk to his cell. I began to walk behind him when he suddenly without warning turned around toward me raising both arms. Inmate Bermudez began to flail both his arms at me, striking me twice to the upper right shoulder and then pushed me back. With the help of C.O. Businger and Deputy Adams we attempted to gain control of Inmate Bermudez. Inmate Bermudez resisted violently, I attempted to place a wristlock on Inmate Bermudez's left arm C.O. Businger attempted to place a wristlock on Inmate Bermudez's right arm. We struggled with Inmate Bermudez for several minutes.

Inmate Bermudez failed to follow many orders to stop resisting and to lie on the ground to be cuffed. It was not until the assistance from Deputy Adams that we were able to overcome his resistance and place him on the ground to be cuffed.

Inmate Bermudez once cuffed was taken to intake Sober Cell #2 without further incident. Inmate Bermudez was cleared by Nurse Manny. Deputy Adams suffered hand injuries as a result of the incident and was treated at an area hospital. C.O. Businger and I suffered minor bruises that did not require further medical treatment.

Due to the seriousness of the incident, I recommend 15 days on 3 West C side. For further details see Crime Report #04-11264

M. 12/11/04

San Mateo County Sheriff's Office Detention Division



- ☐ Special Housing
☒ Report of Inmate Action
☐ Administrative Action
☐ Informational Report
☐ Strip Search

DATE 12/15/04	TIME 15:17
FACILITY Maguire Facility	
REPORTING DEPUTY Wiltz 151	
APPROVED BY <i>Coronado Sino</i>	
CLASSIFICATION STATUS H33	

PRINT OR USE TYPEWRITER TO FILL IN THIS FORM

INMATE NAME Bermudez, Wilfredo			SEX Male	SMSO ID.# 249211	CLASSIFICATION STATUS H33
BOOKING CHARGES 23152, 11377(a), 496(a), 245, 2800.2, 529(3)		MEDICAL PROBLEMS? N/A	MED. STAFF ADVISED? (NAME) N/A		
Special Housing			Report of Inmate Action		
<input type="checkbox"/> MINOR Infraction			RECOMMENDED DISCIPLINE: 48 hour lockdown 5 Days C-Side		
CELL #	PLACED BY DEPUTY	DATE & TIME			
CELL #	REMOVED BY DEPUTY	DATE & TIME			
Restraint Gear			<input checked="" type="checkbox"/> MAJOR Infraction		
RESTRAINT GEAR USED Belly Chains, Leg Irons			You are accused of conduct in a San Mateo County Jail Facility which constitutes a MAJOR violation. If found guilty, the recommended punishment for this infraction is: LISTED ABOVE		
PLACED BY DEPUTY Shalhoob #86, Wiltz #151		DATE & TIME 12/15/04 1332hours	AVAILABLE GOOD/WORK TIME: _____ <input type="checkbox"/> I do not contest the facts of the allegation. I accept the penalty and waive further hearing. <input type="checkbox"/> I do request a hearing before the Disciplinary Review Board. I have been supplied with an infraction Review Board Information sheet and I understand my rights to a hearing and the procedure for obtaining same. I have received a copy of this report.		
REMOVED BY DEPUTY Overman #63, Shalhoob		DATE & TIME 12/15/04 1405hours			
Inmate Welfare Checks					
DEPUTY / BADGE #	DATE & TIME	DEPUTY / BADGE #	DATE & TIME		
DEPUTY / BADGE #	DATE & TIME	DEPUTY / BADGE #	DATE & TIME		
DEPUTY / BADGE #	DATE & TIME	DEPUTY / BADGE #	DATE & TIME		
DEPUTY / BADGE #	DATE & TIME	DEPUTY / BADGE #	DATE & TIME		
Strip Search					
REASON / PURPOSE OF SEARCH					
SEARCH CONDUCTED BY DEPUTY / BADGE #		DATE & TIME	SIGNATURE OF INMATE		
SEARCH WITNESSES BY DEPUTY / BADGE #		SEX Male	SIGNATURE OF WITNESS		
RESULTS OF SEARCH					
DESCRIBE CONDUCT OR CIRCUMSTANCES LEADING TO ACTION TAKEN:					
REFER TO PAGE 2					
DISCIPLINARY REVIEW BOARD FINDINGS: (Note facts relied on and witnesses called)					
BOARD MEMBER	DATE	BOARD MEMBER	DATE	BOARD MEMBER	DATE
COMMENTS:					
			FACILITY COMMANDER APPROVAL <i>[Signature]</i>	DATE 12/16/04	

San Mateo County Sheriff's Office
Detention Division


☐ Special Housing

☒ Report of Inmate Action

☐ Administrative Action

☐ Informational Report

☐ Strip Search

DATE 12/15/04	TIME 15:17
FACILITY Maguire Facility	
REPORTING DEPUTY Wiltz 151	
APPROVED BY <i>Colombet</i>	

PRINT OR USE TYPEWRITER TO FILL IN THIS FORM

DESCRIBE CONDUCT OR CIRCUMSTANCES LEADING TO ACTION TAKEN:

RE: Bermudez, Wilfredo ID #249211

On the above date, at 1332 hours, C/O Shalhoob #86 and I escorted inmate Bermudez to the clinic for an appointment to see the nurse for injuries he said he sustained from a fight with Deputies on Saturday, December 11th.

Approximately 15 minutes later, rovers were called to the medical floor to assist Shalhoob and Overman #63 with Bermudez. Upon arriving, I heard Bermudez yelling at the deputies as well as Nurse Practitioner Ruth Ann. Bermudez yelled, "I can't fuckin' stand on my toes, just come beat me up, lets get it started!"

Bermudez also complained that the nurse was not doing a proper exam. According to Nurse Nancy, NP Ruth Ann had asked Bermudez to stand on his toes, in which he replied, "I can't." So she asked him to roll back on his heels, in which he began yelling at her saying he couldn't once again. This is what caused Bermudez to become agitated and begin yelling. Bermudez requested that Ruth Ann take pictures of his injuries, in which she told him that X-Rays were scheduled for Friday, the 17th.

As Shalhoob, Overman, Mitchell #88, Wallace #464, Spray #565, Plaisted #22, Sgt. Colombet, and I escorted Bermudez out of the exam room, he looked back at NP Ruth Ann and called her, "A fucking cunt!"

Bermudez is in violation of major rule #201, criminal conduct, displaying aggression towards staff, and major rule #207, disruptive conduct, any other act that significantly affects the safety, order, security of the facility. For these violations, I recommend 48 hour lockdown, and 5 days C-Side consecutive with his prior write up.

LOOK AT DATE OF INCIDENT AND XRAY DATE AND THIS DATE
THIS HAPPENED BECAUSE I WAS HOG TIED ALL THROUGH
THIS INCIDENT. ARMS AND LEGS WERE HAND CUFFED DURING
THE EXAM.

Cunt MEANS

CANT

understand

N
NORMAL

I
THINKING

(over)

ORDINARY REVIEW BOARD REPORT

Bermudez, Wilfredo

249211

12/11/04 1958hrs

INMATE NAME

ID#

HEARING DATE/TIME

#201-Criminal Conduct

12/11/04 2345hrs

VIOLATION/DESCRIPTION

DATE/TIME OCCURRED

Dep. Dell'Ara #506, C/O Ovalle #116

Law Library

BOARD MEMBERS

FACILITY/LOCATION

Pre-hearing checklist

Inmate received report: yes

Held within time frame: yes

Witness: no

Appears competent: yes

By:

NIR I got 25+ witnesses

Hearing: (summary of report and inmates statement. Inmate Bermudez is accused of refusing to return to his cell, resisting and assaulting staff. He stated he received his copies on 12/12/04 around 0320 hours. He submitted a 2 page letter (front and back) written by Inmate Aleem whom is housed in cell #17. He submitted a copy of a completed grievance dated 10/14/04 which had 3 sheets attached labeled bland diet, no added salt (NAS) diet and Low fat diet. He also submitted a 3 page letter of his recollection of the events as they occurred.

He said the problem started on dayshift when he received his lunch, it had peanut butter in it. He notified C/O Vasquez, who notified the kitchen of the error. A turkey lunch was delivered to replace the peanut butter. When his dinner arrived it was ravioli with sauce which he said he couldn't have. He notified C/O Ismael who contacted the kitchen and was told that it was ok for Bermudez to have. C/O Ismael told him to file a grievance. Inmate Bermudez explained he already had. C/O Ismael told him that he would brief night-shift. Bermudez said that C/O Storm was already there and heard this. A few minutes later he pushed the button and C/O Storm responded that he needed to write a grievance. Inmate Bermudez told him he needed the grievance form. C/O Storm told him he would give him one at count time.

At count time Bermudez asked for the grievance form. C/O Storm told him he forgot it and would get one to him. Inmate Bermudez attempted to show Storm the responded to grievance but said that Storm wouldn't look at it, didn't want to see it. He told Storm he wanted to see the Sergeant. C/O Storm had moved on and continued with count. He and Bermudez exchanged words, yelling back and forth. Bermudez admitted to swearing at him but said Storm did the same. Bermudez said he told Storm "I'll just wait till Rec time and I'm not going back in till I see a Sergeant". Storm told him "will see about that, your responsible for your own actions" and Bermudez said he replied "so are you".

A little bit later, it was pill call and C/O Storm was escorting Nurse Brett to the cells. When they arrived at Bermudez's cell he attempted to hand Storm the copy of the old grievance again but Storm wouldn't read it. He told the nurse you're my witness but the nurse said "I'm just here to give you your pills, take your pills".

C/O Storm noticed a tray in Bermudez's cell and asked for it. Inmate Bermudez said he told him "if you get me another one, I'm going to show this to the Sergeant". He said Strom replied "good luck". He then repeated that he wanted to see the Sergeant and Storm told him to write a grievance. Bermudez said "then give me one". He said the medication took effect and he fell asleep.

At approximately 2345 hours he came out for Rec. Dep. Costa was in the tower with C/O Businger. Inmate Bermudez said he went around to the cells telling the inmates to be on there windows because

Case 5:08-cv-02236-JW Document 1 Filed 04/29/2008 Page 27 of 44
he was going to get Sub. ev. 02236-3W started with Inmate Perryman who asked what's going on. He said "I can't get a witness, stay by your door". He then went over to the speaker by the exit door and pushed the button. Dep. Costa asked "what's up" he replied "I need to talk to a Sergeant". He said they called for the Sergeant, that he needed to quit being stupid and go back to his cell. He said he told them his rec. wasn't over yet.

C/O Storm came to the A side door, Bermudez told him "here you take this grievance and call the Sergeant. He said Storm said "you're going to see a Sergeant alright". Storm opened the door and as he did Inmate Bermudez grabbed the handle to stop the door from opening. He told them "I'm not going to let you in. Just get the Sergeant". Then Storm planted his foot on the wall and pulled on the door but he just held fast. He said they were deciding who would take his left side and who would take his right side when he told them "I'm not letting you beat my ass bring in ERT" He said he wanted it video taped. Inmate Bermudez says the whole time he is asking them to take the grievance. He told them he was going to let go of the door, go and sit down, which he says he did. He said he still had the grievance in his hand when they (Storm, Businger, and Adams) came in and grabbed his arms. He told them "you can't do that". He said there were no instructions given to him. He admitted he had tucked his hands into him so they couldn't grab them. They were struggling and went from the table to the wall next to the door. They started punching and kicking him but still gave him no instruction. They pulled his t-shirt over his head, that's when they told him to put his hands behind his back but his legs were pulled out from underneath him. He said Dep. Costa must have called for assistance because that's when Dep. Garcia and Munoz came in. He yelled that they needed 2 pair of cuffs for him. They were applied, Garcia and Munoz helped him up, took him down stairs.

He requested that we interview all inmates on A side about the incident. *

I asked Inmate Bermudez "then you did violate rule #201? He said yes but he was forced into it."

Findings: (include basis) Inmate Bermudez admitted to violating #201 when he held the door, not allowing staff to enter. Also when he tucked his hands and twisted, resisting staff's attempts to handcuff him. We did not interview the inmates due to the possibility of a follow up investigation. Based on his admissions, we the Board find him guilty of violating rule #201.

Recommended discipline assessment: *The recommended discipline is 15 days 3 West C side which we concur with.*

DISPOSITION

FACILITY ADMINISTRATOR REVIEW

ASSESSMENT APPROVED AS SUBMITTED
AMENDED TO _____

BY:

(Title)

1664
TJG
BY: [Signature] (Date) 12/17/04

WITNESS INTERVIEW
TO BE CONDUCTED AT
DIRECTION OF TEAM COMMANDER.

Submitted by: Dep. Dell'Ara #506
(Classification Unit)

DEC 20 2004

NEVER TOOK PLACE

San Mateo County Sheriff**SUSPECT 1: BERMUDEZ, WILFREDO JAVIER**

Involvement SUSPECT	Invl No 1	Type Individual	Name BERMUDEZ, WILFREDO J.	MNI 25670
Race HISPANIC/MEXICAN/LATIN	Sex MALE	Date of Birth 07/22/1965	Age 39	Ethnicity HISPANIC ORIGIN
Juvenile? No	Height 6'02"	Weight 300#		
Hair Color BLACK	Eye Color BROWN	Skin MEDIUM BROWN	Means of Attack HANDS, FEET AND FISTS	Dom Violence NO
Gen Appearance UNKEMPT	Build HEAVY			
Hair Description SHAVED HEAD	Facial Features UNSHAVEN			
Speech LOUD	Demeanor PROFANE	Body Clothing ORANGE/SHIRT/CASUAL PANTS		
Weapon Type HANDS/THREATS				
Type HOME	Address 254 NAPLES STREET	City SAN FRANCISCO	State CALIFORNIA	
Type FBI NUMBER	ID No 817998X3			
Type SHERIFF'S ID NUMBER	ID No 249211			
Type STATE IDENTIFICATION NUMBER	ID No D598329	OLS CALIFORNIA		
Type SOCIAL SECURITY NUMBER	ID No 565-47-1414			

VICTIM 1: ADAMS, TONY

Involvement VICTIM	Invl No 1	Type Government	Name ADAMS, TONY	MNI 25671
Means of Attack HANDS, FEET AND FISTS	Extent of Injury COMPLAINT OF PAIN	Dom Violence NO		
Relationship VICTIM	Name DEPUTY TONY ADAMS	Sex MALE		
Address 300 BRADFORD ST	City RWC	State CALIFORNIA	Phone Type BUSINESS	
Phone No (650) 599-7400				
Employer/School SAN MATEO COUNTY SHERIFF'S OFC	Position/Grade DEPUTY			
Location 300 BRADFORD STREET	City Redwood City	State CALIFORNIA		
Coroner				
Private Physician DR. OLDHAM	Address SEQUOIA HOSPITAL			
Nature of Illness SWOLLEN RIGHT HAND/ MUSCLE TIGHTNESS IN LEFT SHOULDER				
Last Visit Date 12/12/2004				
Treatment PAIN-MEDICATION				
Injury Place MCF300 BRADFORD STREET 3WEST	Injury Date 12/11/2004	Injury Time 23:55:00	Injured At Work? Yes	
Injury Premise MCF-3 WEST DAY ROOM				
How Injured WHILE ATTEMPTING TO CONTROL S-BERMUDEZ				

WITNESS 1: DEPUTY NINO COSTA

Involvement WITNESS	Invl No 1	Type Government	Name DEPUTY NINO COSTA	MNI 25672
Alias Name NONE	Race	Sex	Date of Birth	Height
Weight	Hair Color	Eye Color	Skin	

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San Mateo County Sheriff's Office

Relationship	Name					
WITNESS	DEPUTY NINO COSTA					
Address				City	State	
SMC0-300 BRADFORD STREET				Redwood City	CALIFORNIA	
Employer/School			Position/Grade			
SAN MATEO COUNTY SHERIFF'S OFC			DEPUTY			
WITNESS 2: C O GREG STORME						
Involvement	Invl No	Type	Name			MNI
WITNESS	2	Government	C O GREG STORME			25674
WITNESS 3: C O GREG BUSINGER						
Involvement	Invl No	Type	Name			MNI
WITNESS	3	Government	C O GREG BUSINGER			25675
Relationship	Name					
WITNESS	C O GREG BUSINGER					
Address				City	State	
300 BRADFORD ST - 3 WEST				REDWOOD CITY	CALIFORNIA	
Employer/School			Position/Grade			
SAN MATEO SHERIFF'S OFC.			C/O			
Location				City	State	
300 BRADFORD ST - 3 WEST				REDWOOD CITY	CALIFORNIA	
Property						
Item	Involvement	In Property?	Tag No	Item No		
1	EVIDENCE	Yes	040002247	1		
Description						
(2) POLAROID PHOTOS OF DEPUTY ADAMS SWOLLEN RIGHT HAND						
Type	Cat	Article				
A	CAMERA/PHOTO EQUIPMENT/FILM	PHOTOS				
Rcv Location				Rcv City		
300 BRADFORD ST - INTAKE				REDWOOD CITY		
Rep Dist			Beat			
MCF - INTAKE			A			
Item	Involvement	In Property?	Tag No	Item No		
2	EVIDENCE	Yes	040002247	2		
Description						
(1) PHOTO DEPICTING DEP. ADAMS HOLDING KEY TAG (1) PHOTO OF KEY TAG w/ KEYS						
Type	Cat	Article				
A	CAMERA/PHOTO EQUIPMENT/FILM	PHOTOS				
Modus Operandi						
Gang Act?	Victim's Action					
No	WORKING					
Suspect Action						
INJURY INFLICTED/MADE THREATS						
Crime Code(s)						
ASSAULTS						
Narrative						

Awareness:

On 12-11-04 at approximately 2355 hours, I was working the Intake desk of the Maguire Correctional Facility when Jail Staff escorted S-Bermudez to Sober Cell #2. I was contacted by Sgt. Johnson #151, who told me that S-Bermudez became combative in the Day Room of 3 West (Maximum Security), therefore, he was placed in Sober Cell #2 to calm down. Sgt. Johnson informed me that S-Bermudez challenged Staff's requests to re-enter his cell when his recreation time ended.

S-Bermudez was secured inside the cell 12-12-04, at approximately 0001 hours. RN Manny Bulatao checked S-Bermudez and cleared him to stay in Sober Cell #2.

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Narrative**Witness Statements:**

I then spoke to Sgt. Scott who told me that several Jail Staff members assisted in controlling S-Bermudez's combativeness. I met with W-1 Deputy Costa #475, who told me that he was relieving W-2 C/O Storme #120 in the control tower of 3 West A-Side. W-1 Deputy Costa stated that he began recreation for S-Bermudez in the Day Room, 12-11-04, at 2340 hours. W-1 Deputy Costa said that S-Bermudez requested to speak to a Sergeant via the intercom. W-1 Deputy Costa said he advised S-Bermudez that a Sergeant was not going to speak with him at that time. W-1 Deputy Costa said S-Bermudez appeared angry and continued demanding to speak to a Sergeant. W-1 Deputy Costa said that he told S-Bermudez to complete his recreation time and a Sergeant would speak to him at a later time. W-1 Deputy Costa said S-Bermudez refused to walk away from in front of the Control Tower and began slamming his hands on the Tower's window, which faces A-Side Day Room. W-1 Deputy Costa asked his partner, W-3 C/O Businger #105, to contact W-2 C/O Storme to respond back to 3 West so he could speak with S-Bermudez. W-1 Deputy Costa said that a short time later, W-2 Storme arrived and spoke to S-Bermudez through the access door, which leads into the A-side Day Room. W-1 Deputy Costa said that several other jail Staff members arrived and assisted W-2 Storme.

I met with W-2 Storme, who told me that he was on a break when he received a telephone call from W-3 Businger. W-2 Storme said W-3 Businger that S-Bermudez was refusing to go back into his cell when his recreation time ended. W-2 Storme said that he responded to 3 West and met with W-3 Businger, who briefed him of the circumstances leading to S-Bermudez's uncooperativeness. W-2 Storme said that he spoke with S-Bermudez through the access door, which opens into the Day Room. W-2 Storme said he asked S-Bermudez why he was refusing to go back into his cell. W-2 Storme said that S-Bermudez was requesting to speak to a Sergeant. W-2 Storme said he unlocked the access door to the Day Room to retrieve a grievance from S-Bermudez, but he walked up to the door, grabbed the handle and shook the door. W-2 Storme said S-Bermudez then backed away from the door. W-2 Storme said that he opened the Day Room door and took the grievance from S-Bermudez. W-2 Storme said that S-Bermudez took a few steps towards his cell, but suddenly turned back towards him and lifted both of his arms. W-2 Storme said S-Bermudez began flailing his arms at him, striking him twice on his right shoulder and pushing him back with both of his hands. W-2 Storme said that he and W-3 Businger attempted to gain control of S-Bermudez's arms by placing a trained wrist control, but he continued flailing both of his arms at them.

W-3 Storme said V-1 Deputy Adams entered the Day Room and assisted them in placing S-Bermudez on the ground. W-3 Storme said that while S-Bermudez was on the ground, he continued to resist by placing both of his arms in front of him while he layed on his stomach. W-2 C/O Storme said that he, W-3 C/O Businger, and V-1 Deputy Adams gave loud verbal commands to S-Bermudez to place both arms on his back, but he refused. W-3 C/O Storme said several of the Jail Staff members arrived to assist and subsequently placed S-Bermudez in to sets of metal handcuffs, which were double locked.

Victim Statement:

I spoke with V-Deputy Adams, who stated the following: V-Deputy Adams #602 said that he heard via the jail radio that Staff on 3 West needed assistance. V-Deputy Adams said he responded to 3 West and met with W-2 C/O Storme and W-3 C/O Businger. V-1 Deputy Adams said that he was standing at the access door to the Day Room, while W-2 Storme and W-3

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San Mateo County Sheriff**Narrative**

Businger escorted S-Bermudez back to his cell. V-1 Deputy Adams said that S-Bermudez became agitated and began flailing his arms at W-2 Storme. V-1 Deputy Adams said he observed W-2 Storme and W-3 Businger attempting to control S-Bermudez with a wrist lock on both arms, but he continued to break free of their hold. V-1 Deputy Adams entered the Day Room and assisted W-2 Storme and W-3 Businger. V-1 Deputy Adams said he, W-2 Storme, and W-3 Businger gave loud verbal commands to S-Bermudez to get on the ground and place both arms behind his back, but he refused and continued flailing his arms breaking their hold. V-1 Deputy Adams said S-Bermudez became unbalanced and fell towards W-2 Storme, who was attempting to control his legs. V-1 Deputy Adams said S-Bermudez fell onto his stomach, but continued resisting and jerking his arms away from Jail Staff. V-1 Deputy Adams said he, W-2 Storme, and W-3 Businger continued giving S-Bermudez verbal commands to stop resisting and place both arms behind his back, but he continued resisting. V-1 Deputy Adams said he then punched S-Bermudez on the side of his face with a closed fist approximately two times giving him commands to stop resisting between each punch. V-1 Deputy Adams said he then placed the aluminum Key tag, which is attached to a set of Jail keys in his right hand and again gave verbal commands to S-Bermudez to stop resisting and place both of his arms on his back, but he refused. V-1 Deputy Adams said he struck the right side of S-Bermudez's torso with the Key tag, which was parallel to all his fingers. V-1 Deputy Adams said he gave S-Bermudez verbal commands prior to striking S-Bermudez. V-1 Deputy Adams told me several other Jail staff members arrived and assisted in placing S-Bermudez in metal handcuffs.

Suspect statement:

I read S-Bermudez his Miranda rights, which he acknowledged he understood by saying, "Yes." S-Bermudez invoked his rights by requesting his lawyer.

Injuries:

V-1 Deputy Adams complained of pain and swelling of his right hand. V-1 Deputy Adams said he sustained the hand injury during the struggle with S-Bermudez. V-1 Deputy Adams was treated and released by Sequia Hospital in Redwood City.

S-Bermudez complained of back pain. RN Manny Bulatao checked S-Bermudez and cleared him for his back pain and also noticed that he had a small contusion on the right side of his face. The contusion was documented.

Examination of crime scene:

Crime scene is a housing pod on 3 West A-Side. The Day Room, which is secured and located in the Maguire Correctional Facility on 3 West. The Day Room is used for Inmate recreation. The Day Room has upper and lower housing cells and six metal tables with metal chairs and two showers. It also has two access doors downstairs and one door on the top floor.

Evidence:

- (2) Polaroid photos depicting V-1 Deputy Adams hands.
- (1) Polaroid photo depicting V-1 Deputy Adams holding a set of keys with a Key tag.
- (1) Polaroid photo depicting a Jail set of keys.

The above listed photos were submitted into the San Mateo County Sheriff's Property Room.

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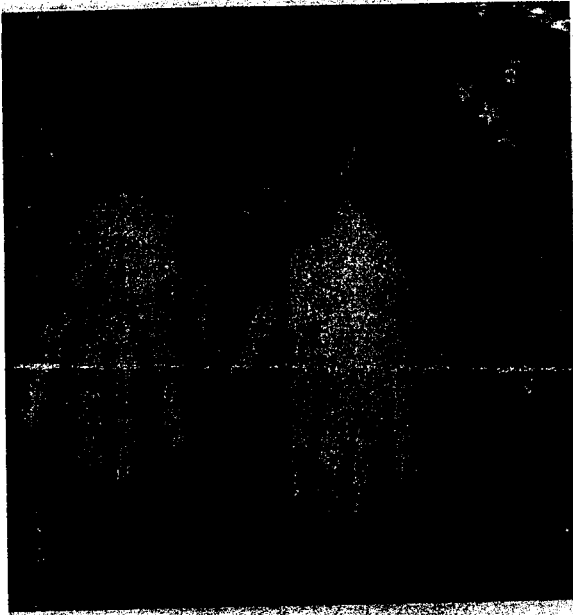
Incident Report
San Diego County Sheriff**Narrative****Potential Leads/Recommendations:**

I request this report be filed and sent to the District Attorney's office for review. I also request charges of 243.1 P.C. be filed against S-Bermudez.

Report Officer
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12/13/2004 15:22

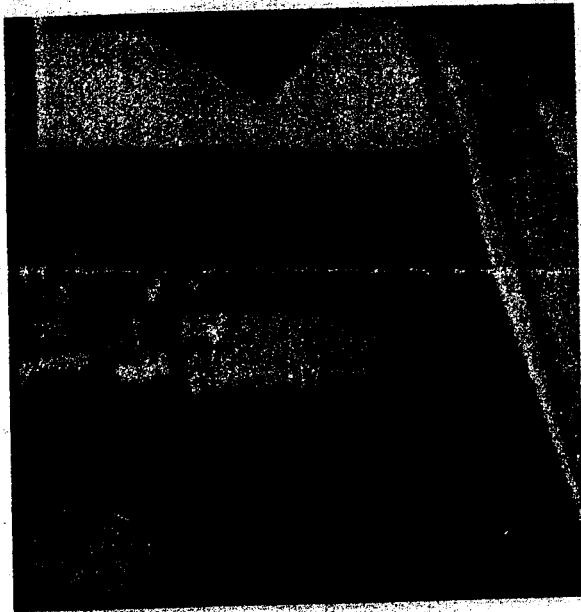
Page 6 of 6



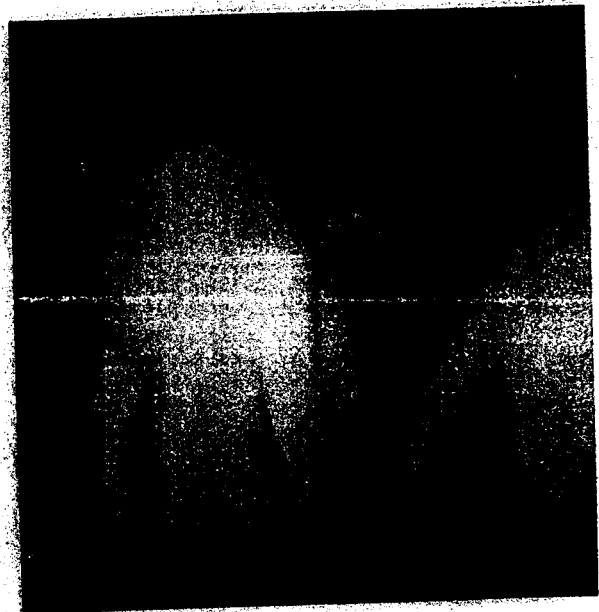
DEPUTY TONY WALKER #602
04-11264



LEP 04-11264



04-11264



04-11264

Statement of Incident.

I might I just seen some unfairful ship. It was almost mor... my eyes
could handle at that present time. At exactly 12:00 am I heard another
inmate by the name of Mr. Bermudez request to speak to an available
sergeant. He mentioned something about his food, and that he still
had it in his room to show the sergeant. He was told that he should
write a grievance. He said that he had filled many out already, and
he wanted to speak with the available sergeant to show him. He
was told then that he might as well forget it, cuz it was stupid. He
(the inmate) replied that the deputy that spoke to him was stupid. The
deputy's last name is Horne #120. Instead of being professional, Horne
ran from the office, and began to try to hit the inmate. The inmate yelle
"Don't hit me!" After 2 more deputies came, they continued an assault
on a person who wasn't resisting. The blows seemed very uncalled
for, all unconfessed, and pointless. I seen punches with closed fists
to his face, knees to his stomach, and keychains used as weapons to
his neck area. As the inmate tried his best to protect himself from the
attacks, I noticed Dept. Bussinger kick him on the side of his leg.
He cried out saying, "You can't do this to me, My leg was already broken."
The inmate bent down in agony over his injured leg, and was kneeling
in the face. As he went to the ground he recieved numerous elbows
to his lower back that made a sound I heard distinctly thru the
steel doors. Many other inmates looked on with horror also. It seem
ed as if the whole pod area was under a trance at the sight of some-
body with an inmate copy of a grievance form scream a str-
eam of non-sensical words out of his mouth backed with painful
cries from unwarrented blows. The spell was broken when one of
the witnesses to the hellish scene uttered, "That's wrong... you can
do that to anybody!" At that point many voices were heard in

2
 agreement to the physical abuse that was being administered by these three deputies. "Put your hands behind your back?" was what I heard coming from the area of assault. An instruction that seemed odd to me because of 2 reasons. First it was the first of any that was said. Second it seemed from my viewpoint a hard thing to do while protecting one's body from blows coming from 3 different people. More deputies came into the pod area, but I noticed that one grabbed this leg and twisted, and folded it to the top of his back. The inmate's pain was from his voice and mentally strained the whole pod. This couldn't be right. Somebody ripped his hands from the protection of his face, and head area then cuffed him. During this time other witnesses to the crime were stating that fact to the other deputies and sergeants who appeared to be milling around. A voice I didn't attach to a body yelled for everyone to get from the window, and sit on the bunks. As I was sitting I heard another voice respond with, "But that wasn't right. Are they trying to kill him?" The flabbergastedness in the tone of this speaker's voice was one I personally identified with. I walked to the desk area in the room to write this very letter, and heard a deputy's voice say "You get Vigil... he is part of the Northern gang..." I heard a cell door open then cuff clicks. All the while a voice which belonged to Vigil say, "I did nothing wrong, but watch you violate this guy's rights." The pod quieted after, but the memories and questions of what could be done lingered. I listened as one person said, "They will never believe us, that they could kill us!" This is what transpired to the best of my knowledge. Also to the best of my knowledge the attack was completely unjustifiable. I have planned on mailing a copy to inmate Bermudez family. I am presenting

3

This is what transpired to the best of my knowledge. Also to the best of my knowledge the attack was completely unjustifiable. I have planned on mailing a copy to inmate's Bermudez family. I am presenting myself as a witness also. This was a violation of the Eighth Amendment where force was used maliciously, and sadistically for the purpose of causing harm. The degree of force used was completely out of proportion to the needs of the situation. I'm pretty sure that the evidence, and the other witnesses would corroborate with these facts I have written.

Good Witness — Wilbur H. Perenzon
#63189

" "

F. Hoschar

#1083261

R. BARAJAS

#1069553

" "

R. CARROLL

#1097766

Billie P. P.

1057888

" "

BOBBY TRIN #1099631

" "

Cesar E. Preza #1076231

" "

Anthony W. Tupuball #1050493

Ron Vigil #1060425

Angel Alvarado #1105253

Melhar Ashkar #1102846

GOOD WITNESS

Farooq Abdul Aleem #1096169

By M Paul 1085729 #A-18

EXHIBIT C

Inmate Grievance Form

- ☒ Administration ☐ Other
☐ Classification
☐ Medical
☐ Food Service

Date: 12-27-2004
 Inmate #: 1610
 Facility: MCF 34WEST C3
 Deputy: LEJEUNE #69

To: (Facility Commander)

Date: 12-26-04

From: (Inmate's Name) WILFREDO BERMUDEZ

Id# 249211

Cell 3-W-C3

Grievance (Please be specific: time, date, etc.) ON 12-11-04 I WAS A VICTIM OF ASSAULT VIOLATION OF MAJOR RULE 201, BY THREE DEPUTY'S - STORMING MY %0 BUSINGER - DEPUTY ADAMS. THEY BEAT ME UP AND WOULD NOT GIVE ME MED HELP FOR OVER 3 HOURS. ON 12-17-04 I WOULD LIKE TO PRESS CHARGES. ON 12-17-04 LT GUTERREZ SAID THAT SOMEBODY WILL START TO DO INTERVIEWS AT THE DIRECTION OF THE TEAM COMMANDER. I'VE BEEN ASKING FOR HELP BY ALOT OF STAFF PEOPLE. THIS IS MY 3RD GRIEVANCE, AND STILL NO ANSWER. I NEED HELP. I WANT TO PRESS CHARGES. I WOULD LIKE AN INVESTIGATION. PLEASE! ALL OF A SIDE SEEN WHAT HAPPEN. I BEEN AND STILL ASKING TO HAVE THIS MATTER INVESTIGATED. I'M GOING TO BE 1 MONTH SINCE IT HAPPENED PLEASE! HELP
 Inmate's Signature: W. Bermudez 249211

Note: After you have finished and signed this form, take your GOLD copy for your records.

Staff member's response:

Signature:

Date:

Supervisor's response:

Signature:

Date:

Facility Commander:

Signature:

Date:

White: File

Yellow: Response to Inmate

Pink: Staff

Gold: Inmate's Copy

you know what's mess up about this!?
%Businger Could Call, But Not the Srgt.

AS FAR as the grievance is Concerned, He's Been
Brief By myself, Before 600 pm Count. and
Deputy Ismael also Brief him in regards
to Pad activity Before he left the floor!

I also kept asking him if I Can Please
Speak to a Srgt., He Stated "Write a
GRIEVANCE AND stop pushing the Button OR
your going to lose your Rec Time,"!

I Pushed It again and asked him to
Please Bring Me a grievance when he
does Count he Said he Would, When
Count Came I asked about GRIEVANCE &
he Stated "I Forgot I'll BRING IT
LATER". THEN HE ASK FOR THE DINNER tray.
I Said "No I don't know what I'm going
to Do Yet So I'll Just hang on to It.
He Then Stated Soot Yourself But
to Remember you are Responsible for
your own action. Then I Said
Just Please Call the Srgt Please
I'm Hungry and I Don't Need No
trouble... He Said Keep It up
you'll get It!

Meds ~~can~~ and I got them
 and I ask him in front
 of the Nurse to "please get me
 a Srgt." I Said Write a Grievance
 I Said give me one, he Just
 kept Walking and went Next door
 to A 10) When he was Walking
 up the Stairs I asked again
 What do I got to do to Speak
 to a Srgt. I Said grow up
 Quit Being Stupid... My Med
 Kick in I feel a Sleep... I
 Woke up at 1130-1200 Rec Time Via
 Deputy Acosta. I Went to the front
 and ask him and Businger to
 please Call The Srgt about the
 my food. Not Grievance - I ASKED Acosta
 For Assistance Please He Said "I Am
 Just Here to Relif Deputy Storm He'll
 Be Right Back. By then Businger
 Adams and ~~and~~ Storne are putting
 their Gloves on and Storne is telling
 me Dont Worry your gona See the
 Srgt: Deputy Acosta is Still in the
 Tower Still. the Three are by the
 Front Door to A Side Storne is
 giving Orders I got the left your
 the Right Adams you get his

Legs. I ~~Wanted~~ Be Cool I Dont
Want No Trouble I Just Want
to eat! Acosta Said Just Take it
in your Cell quit Being Stupid...

I ask him to get the ERT To No
Aviate. also ask them not to hit me
get 2 Cuffs and we Can go. Sob
F-This - F That. I Said what ever Dont
Hit me! Stop! you Cant Do that Be
Cool. DAM, shit Be Cool. Businger
Did Not Cuff Me Neither Storme
By Then Deputy Acosta Noticed
and KNEW that it's Not your
Average Walk in The Park! after
3-4 min of Wreseteling and No Control
Code 7 or what ever you use Cause
13 more Came Threw The Door To
Control The Matter Yo Munizor - Grace
Help me up and I was Tooken Down
To Not Tank-2 But the one IN Front
of The Finger Print Machines. they threw
me to the ground and Said Cham
down. No More Trouble O.K. Bermudez
I Said I'm Cool Dont trip!

Why No IRT OR VIDEO
What Area Hospital Did Adams Go To.
I Asked % Businger to Please help!

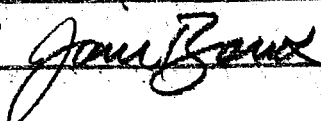
I Pleaded with Deputy Acosta
Ask The Nurse? Storne Said Genuine the Sgt!
Why did Deputy Adams use his Keys?
Why didn't they Just Call the Sgt!
right after I pulled the door shut!?
I WAS Refused MEDICAL Help For the First 3 Hours
WERE IS my signature IF IN Fact. He Got It?

Adil Saz - #108882

ADAM DE COSTA #1057727 

Naurice Cortez #1095759

Rafa #1109453

Jaime Barros A-24 #1074131 

THERE'S A LIST OF WITNESSES THAT CAN
SPEAK ON WHAT HAPPENED.

NO INVESTIGATION WAS EVER LAUNCHED
OFF. ALTHOUGH IT'S BEEN SENT TO OPS OR IAD
TO INVESTIGATE PER LT # L69 ADMIN LT 12-17-05
BY DEP. DELLARA #506

THE TEAM COMMANDER NEVER INTERVIEWED
WITNESSES

THEY THREATENED TO FILE 3X CASE
FOR IN HOUSE VIOLENCE, IF I DON'T
STOP MAKING WAVES AND TAKE THE
DEAL ON 1-29-05.

I'VE ASKED FOR ERT TEAM TO COME NOBODY
CAME. I ASK FOR VIDEO, NOTHING
I SAID "JUST TAKE MY GRIEVANCE" NOTHING
I ASK FOR A SRGT NOTHING
CLEARLY MORE THAN 1 RULE WAS BROKEN
IF YOU REF TO REPORT OF INMATE ACTION
IT NAME'S ADAM'S THERE. NOT LIKE HIS
REPORT SAY THAT HE GOT THERE LATER.
IN THERE REPORT IT STATES THAT THEY FINALLY
GOT ME CUFFED. NO WAY.

ALSO PLEASE CROSS REF LT H HURST

RESPONSE OF GRIEVANCE. IT HAS A BIG
AND HE ALSO SPOelled MY NAME WRONG.

3 - WEST
1

(Notes on Case of BATTERY)

11-19-05

ADAMS WAS THERE FROM THE VERY BEGINNING
ALL 3 Three CAME IN TOGETHER.

% GRACIA GRAB MY LEGS AND ^{PULLED} CROSS BENT
AND SAT ON TILL I WAS CUFF.

% MUNIZO TAP MY SHOULDER AND SAID
RELAX AND CUFF UP NOT STORM, BUS, OR ADAMS
THESE 3 ONLY BEAT ME.

ADAMS NEVER WENT TO THE HOSPITAL.

ADAMS ADMITS GIVING ME BLOWS TO THE FACE,
MY BACK, TORSO

BUSINGER KEPT KICKING MY KNEE AND PULLING MY
SHIRT OVER MY BACK AND KNEEING MY FACE,
BOUNCING OFF MY BACK WITH HIS ELBOW LIKE
"WWE" FOR ABOUT 3 TO 5 MIN A STRAIGHT BEATING
FINALLY 11 TO 13 DEPUTYS % CAME IN. BUT,
THERE FROM OLD MAGUIRE NOT NEW MAGUIRE.
NO BRASS WAS CALLED TILL LATER.

THEY CAN TAKE PICTURES OF ADAMS HANDS
BUT NOT OF MY PERSON.

THEIR RECORDS AND DATES ON WHEN THEY
FINALLY GAVE ME MEDICAL HELP. I HAD

LEG CUFFS, HAND CUFF, WHEN I WAS EXAMINED
I GOT X-RAYS DAYS LATER DUE TO THE FACT
OF % GAINES, SRGT REDIGUEZ, ESCORT, WITH
NO HAND CUFF, OR LEG IRONS!